IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTIION

Writ Petition No. 4941 of 2004

Satyawan Kasbhiram Parab
and others ..Petitioners

vs.

Vijay Sakharam Parab and ors. ..Respondents

Shri S.S.Kanetkar for petitioners.
Respondent no.1 present in person.

CORAM: S.C.DHARMADHIKARI J.
23rd NOVEMBER, 2007

P.C.

1. Perused the order passed by the lower Appellate Court granting injunction in favour of the first respondent/original plaintiff who is appearing in person. The lower Appellate Court has considered the matter at the prima facie stage and has observed that in the peculiar facts of this case, an injunction not to interfere with the first respondent and other plaintiffs' possession in respect of the suit land should be granted.

2. The order passed is interlocutory and based on the material produced at the prima facie stage. The Trial Court has not considered the matter in any details but chose to raise its

conclusion only on one aspect, namely, pendency of Reg.Civil Suit No.43 of 1991 between the same parties concerning the same property. The lower Appellate Court held that the suit is pending, yet, finding that the appellant before it is not precluded from claiming the relief to protect his possession, has adverted to the material produced at the prima facie stage and granted injunction on 11th February, 1999. The injunction is continuing till date.

3. In the peculiar facts of this case, the relief that can be granted in favour of the petitioner is to expedite the hearing of Reg.Civil Suit No.19 of 1998. The said suit, if already not decided, should be decided by the Trial Court within a period of six months from the date of receipt of copy of this order. All contentions on merits are expressly kept open. The Trial Court to decide the suit uninfluenced by the observations. Petition is dismissed.

(S.C.DHARMADHIKARI J.)